

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jonathan Ball and Charles Zeller on 7/21/10.

The application has been amended as follows:

Claim 34, line 1, **delete** "hair of the scalp, eyebrows or" line 2, **delete** " hair with the composition of claim 2 for a time, line 3, **delete** " sufficient to obtain said effect" and **insert----** eyelashes with a post-expanding composition comprising a film-forming agent, a surfactant, a solvent for the surfactant, and a volatile agent, wherein the film-forming agent is present in an amount effective to form a film that entraps at least a portion of foam formed by interaction of the volatile agent and the surfactant after the composition is applied to a hair fiber, the volatile agent being solubilized in the composition by a solubilizing agent selected from the group consisting of a block polymer surfactant, a polyvinyl alcohol-containing polymer surfactant, and a mixture thereof, wherein the solubilizing agent is present in an amount sufficient to prevent separation of the volatile agent from the composition whereby the composition is storable in a non-pressurized container----

Claims 3-8, 10, 16, 22-23, 26, 28 and 33 line 1, **delete** "claim 2" and **insert ----** claim 34---; line 2, delete "polyvinyl alcohol " and insert--- polyvinyl alcohol - containing polymer surfactant----

Claim 26, line 2, **delete** “stearic acid, palmitic acid, myristic acid”.

Claim 60, line 1, **delete** “claim 1,” and **insert** ---- claim 34----.

Claim 61, line 1, **delete** “ claim 2” and **insert**--- claim 60----, **delete** ” comprises”.

Claim 67, line 1, delete “ claim 35” and insert---- claim 33----

Claim 68, line 1, delete “ claim 43” and insert--- claim 67, delete “ comprises” and insert--- is----.

**Cancel** claims 1-2, 11, 13, 35-41, 43-44, 50-58, 62-66 and 69-70.

The following is an examiner’s statement of reasons for allowance: the combination of JP 9-77629 translated text ( JP ’629) and U. S. Patents 6,096, 702 (‘702) and 4,559, 057(’057) do not teach or fairly suggest the claimed method of imparting a volumizing effect to eyelashes comprising the step of contacting the eyelashes with a post-expanding composition comprising a film-forming agent, a surfactant, a solvent for the surfactant, and a volatile agent, wherein the film-forming agent is present in an amount effective to form a film that entraps at least a portion of foam formed by interaction of the volatile agent and the surfactant after the composition is applied to a hair fiber, the volatile agent being solubilized in the composition by a solubilizing agent selected from the group consisting of a block polymer surfactant, a polyvinyl alcohol-containing polymer surfactant, and a mixture thereof, wherein the solubilizing agent is present in an amount sufficient to prevent separation of the volatile agent from the composition whereby the composition is storable in a non-pressurized container.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JYOTHSNA A. VENKAT whose telephone number is 571-272-0607. The examiner can normally be reached on Monday-Friday, 10:30-7:30:1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EYLER YVONNE (BONNIE) can be reached on 571-272-0871. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JYOTHSNA A VENKAT /  
Primary Examiner, Art Unit 1619